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A5691.0580

November 7, 2005

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Ex Parte Presentation (Corrected)

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

This letter corrects my earlier ex parte notification in this proceeding dated November 2, 2005. That letter incorrectly stated the date of the meeting as August 23, 2005. On November 2, 2005, Albert H. Kramer, Allan C. Hubbard, and Robert F. Aldrich of Dickstein Shapiro Morin & Oshinsky, on behalf of the American Public Communications Council ("APCC"), met with Thomas Navin, Chief of the Wireline Competition Bureau, Legal Counsel to the Bureau Chief Ian Dillner and Jeremy Marcus, Pricing Policy Division Chief Tamara Preiss, Deputy Pricing Policy Division Chief Steve Morris, Acting Competition Policy Division Chief Terri Natoli, and Carol Pomponio and Lynne Engledow of the Bureau staff. The matters discussed are detailed in the enclosed document, copies of which were handed out at the meeting.

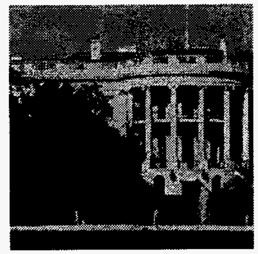
Sincerely,

Robert F. Aldrich

Enclosure

cc: Thomas Navin
Ian Dillner
Jeremy Marcus
Tamara Preiss
Steve Morris
Terri Natoli
Carol Pomponio
Lynne Engledow





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ENSURING THAT UNIVERSAL SERVICE FUND CONTRIBUTION RULES DO NOT UNDULY BURDEN PAYPHONES

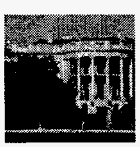
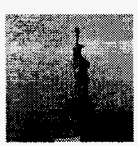
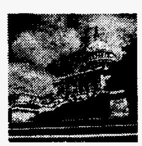
American Public Communications Council

November 2, 2005

SUMMARY

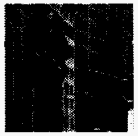
- Revised USF contribution rules should cap payphone service providers' (PSPs') USF costs at current average levels
- Under USF contribution rules – whether revised or existing -- the FCC should:
  - Remove from payphones the burden of subsidizing Centrex customers under any Centrex waiver
  - Allow service providers qualifying for *de minimis* exemption to waive exemption and make direct contributions if they choose



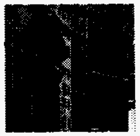
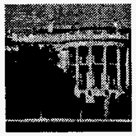
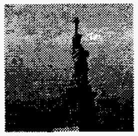
USF CONTRIBUTION REFORMS SHOULD CAP PSPs' USF COSTS

- Payphones effectively provide universal service
  - Payphones offer 24/7 on-demand telephone service with no up-front fees or monthly charges
  - Payphones provide critical emergency service
  - Payphones provide last-resort network access to travelers and other away-from-home callers when wireless alternatives are unavailable or unusable
  - Payphones provide essential service to callers who cannot afford wireless phones
  - Payphones provide service to households with no home phone (currently 8.7 million households – 7.6% of the total and 2.2 million more than last year)


USF CONTRIBUTION REFORMS SHOULD CAP PSPs' USF COSTS (cont'd)

- Rising costs and declining revenues threaten the widespread deployment of payphones mandated by Section 276
- To ensure that USF contribution reforms do not harm PSPs' ability to provide universal service at payphones, the Commission should cap the USF contribution costs incurred by PSPs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USF CONTRIBUTION REFORMS SHOULD CAP PSPs' USF COSTS (cont'd)

- PSPs' USF costs average $.63 per line per month
  - $.27 for direct payers (39% of ind. payphones)
  - $.86 for *de minimis* payers (61% of ind. payphones)
- Absent USF subsidy of Centrex customers, PSPs' USF costs would average $.50 per line per month
  - $.27 for direct payers
  - $.65 for *de minimis* payers
- Under revised rules, the contribution assessed PSPs should not exceed $.50 per line per month

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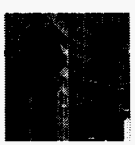
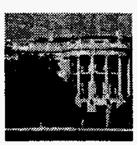

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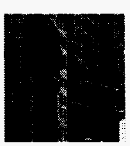
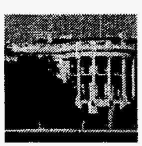
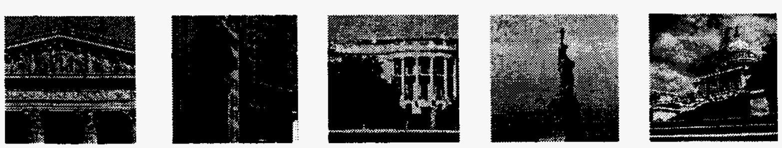
FCC SHOULD REMOVE PAYPHONE SUBSIDY OF CENTREX USF FEES

- FCC's *Waiver Order* (3/14/03) allows LECs to reduce USF charges to Centrex customers by applying equivalent line ratios up to 9:1
- As a result, LECs recover from Centrex customers only a fraction of the USF charges otherwise attributable to Centrex lines
- LECs recover shortfall by assessing inflated USF charges on other customers, including PSPs
- APCC reconsideration petition has been pending for 2 ½ years

FCC SHOULD REMOVE PAYPHONE SUBSIDY OF CENTREX USF FEES (cont'd)

- *Waiver Order* requires PSPs to pay higher USF charges so that Centrex customers can pay lower USF charges. Absent the Centrex subsidy:
  - Verizon's February 2005 $1.35 monthly USF charge per line for Pennsylvania multi-line customers would have been $.65 per line per month
  - Qwest's February 2005 $1.00 monthly USF charge per line for Iowa multi-line customers would have been $.51 per line per month



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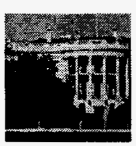
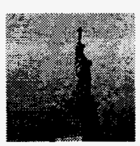
FCC SHOULD REMOVE PAYPHONE SUBSIDY OF CENTREX USF FEES (cont'd)

- Centrex subsidy may not lawfully apply to PSPs:
  - In the *New Services Test Order* (1/31/02) under Section 276, FCC prohibited non-cost-based LEC charges that require PSPs to subsidize other LEC services
  - In the *Access Charge Reform Order on Reconsideration* (6/25/03), FCC ruled that the presubscribed interexchange carrier charge (PICC) could not apply to PSPs because it was not cost-based and required PSPs to subsidize other services
  - For the same reasons, the payphone subsidy of Centrex USF fees is unlawful

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FCC SHOULD REMOVE PAYPHONE SUBSIDY OF CENTREX USF FEES (cont'd)

- *Waiver Order* conflicts with Section 276 mandate for widespread payphone deployment
- FCC should immediately reconsider the *Waiver Order* and direct LECs to assess PSPs USF charges that do not exceed the subscriber line charge (SLC) times the USF contribution factor

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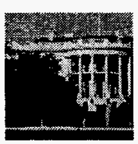

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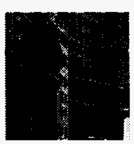
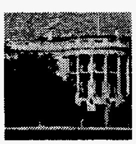
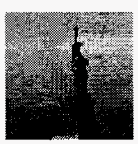
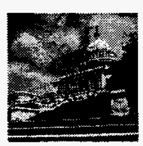
FCC SHOULD ALLOW *DE MINIMIS* PAYERS TO MAKE DIRECT USF PAYMENTS

- Under the *de minimis* exemption, payers whose annual USF contribution would be less than $10,000 are not "required" to submit a direct contribution (47 CFR § 54.708)
  - The rule does not *preclude* service providers qualifying for the *de minimis* exemption from making direct USF contributions if they choose
  - Currently, however, USAC does not accept direct USF contributions from *de minimis* service providers

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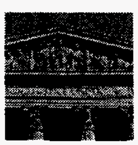
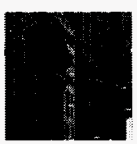
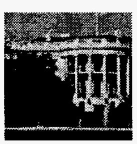
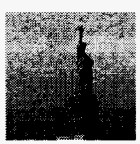
FCC SHOULD ALLOW *DE MINIMIS* PAYERS TO MAKE DIRECT USF PAYMENTS (cont'd)

- USAC's refusal to accept direct contributions from *de minimis* payers is unfair to independent PSPs
- Under the FCC rules, direct USF payers may not be assessed "pass-through" charges
- Only *de minimis* payers are subject to carriers' USF pass-through charges
- Most PSPs qualify for the *de minimis* exemption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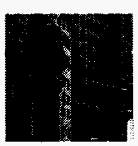
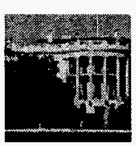
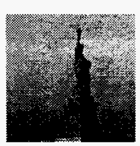
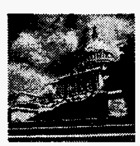
FCC SHOULD ALLOW *DE MINIMIS* PAYERS TO MAKE DIRECT USF PAYMENTS (cont'd)

- LEC pass-through charges alone greatly exceed the direct contributions most PSPs would pay
  - Most PSPs have very little interstate end user revenue. Direct paying PSPs pay an average of $.27 per line per month
  - As of February 2005, LEC USF pass-through charges averaged $.86 per line per month
- FCC should direct USAC to accept direct USF contributions from *de minimis* service providers that choose to pay directly

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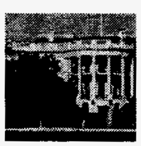
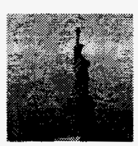
FCC SHOULD ALLOW *DE MINIMIS* PAYERS TO MAKE DIRECT USF PAYMENTS (cont'd)

- Prohibiting small PSPs from making direct USF payments puts them at an unfair competitive disadvantage vis-à-vis large PSPs, including LECs – whose payphone divisions aren't treated as *de minimis*.
- Allowing *de minimis* PSPs to make direct contributions would have a very low impact on overall USF revenue.
- The Commission should direct USAC to accept direct USF contributions from service providers who choose to make them, even if a service provider qualifies for the *de minimis* exemption.

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